

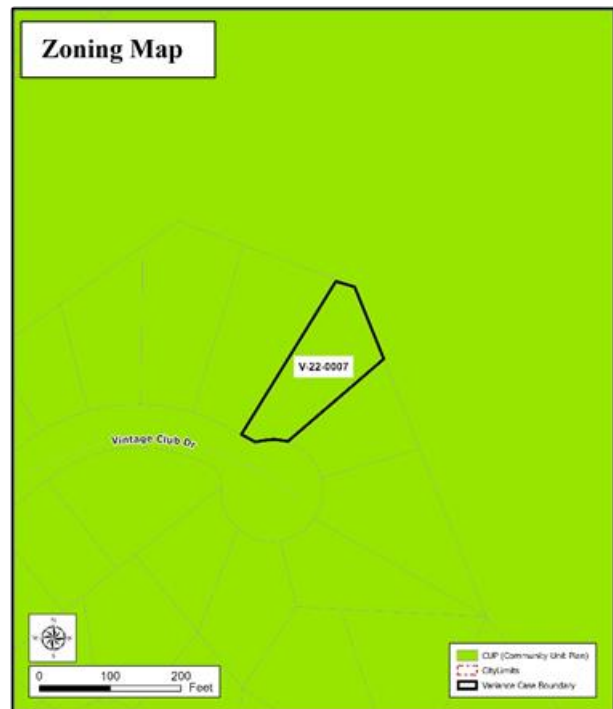


**Board of Zoning Appeals Meeting  
April 19, 2022**

<b>CASE NUMBER:</b>	<b>V-22-0007</b>
<b>PROPERTY LOCATION:</b>	<b>1330 Vintage Club Drive, Johns Creek, GA 30096</b>
<b>CURRENT ZONING:</b>	<b>CUP (Community Unit Planned District) Conditional</b>
<b>PARCEL SIZE:</b>	<b>0.319 Acres</b>
<b>PROPERTY OWNER:</b>	<b>Sean and Kim Kindrick</b>
<b>VARIANCE REQUEST:</b>	<b>31-foot encroachment into the 50-foot undisturbed buffer and 25-foot impervious surface setback to construct a patio and fireplace.</b>
<b>STAFF RECOMMENDATION:</b>	<b>APPROVAL WITH CONDITIONS</b>

### **Background**

The subject property is located in the St. Ives Country Club subdivision and is zoned CUP (Community Unit Planned District) Conditional. The lot was originally platted in Fulton County in 1993 without the presence of a stream or stream buffers on the property. However, a recent survey located a stream along the northeast property line and accordingly, the required 75-foot stream buffer (50-foot undisturbed buffer and additional 25-foot impervious surface setback) is to be applied to the property.



## **Community Development**

## **Applicable Code Requirements**

City of Johns Creek Code of Ordinances, Chapter 109: Natural Resources and Environmental Protection, Article V: Stream Buffer Protection, Section 109-118: Land Development Requirements.

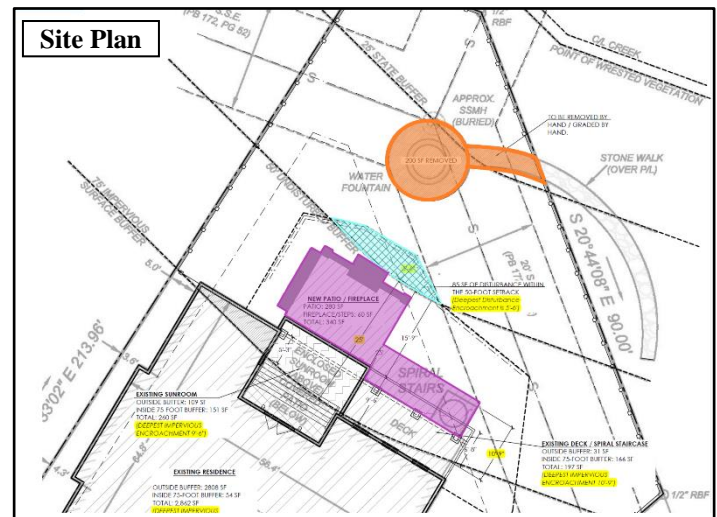
### *(a) Buffer and setback requirements.*

- (1) An undisturbed natural vegetative buffer shall be maintained for 50 feet, measured horizontally, on both banks (as applicable) of the stream as measured from the point of wrested vegetation.
- (2) An additional setback shall be maintained for 25 feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.

## **Variance Request**

The Applicant is requesting to encroach 31 feet into the stream buffer to construct a 340-square foot patio with a fireplace and to bring the entire property into compliance with the Stream Buffer ordinance. These improvements will result in 85 square feet of disturbance (outlined in blue) in the 50-foot undisturbed buffer, and 340 square feet of new impervious surface (highlighted in purple) in the additional 25-foot impervious surface setback. The Applicant has proposed to remove 200 square feet of existing impervious surface within the State's 25-foot stream buffer (highlighted in orange) and replace the area with sod.

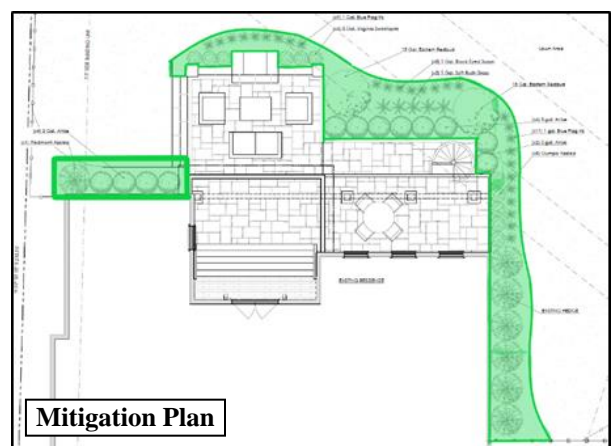
In order to offset stormwater and environmental impacts associated with the proposed encroachment into the stream buffer, the Applicant has proposed to plant 2 small trees, 6 shrubs, and 22 square feet of groundcover, as well as additional planting for beautification (shown in green in the Mitigation Plan).



## **Stream Buffer Variance Review Criteria**

City Code Section 109-118(b)(2) lists the following considerations for granting stream buffer variances:

- a. When a property's shape, topography or other physical conditions existing at the time of the adoption of this article prevents land development unless a buffer variance is granted;
- b. Unusual circumstances when strict adherence to the minimal buffer requirements in the article would create an extreme hardship.



## **Staff Analysis**

The subject property was platted in Fulton County in 1993 with no indication of the presence of a stream buffer. However, a recent survey confirmed the presence of a stream requiring the 75-foot stream buffer (50-foot undisturbed buffer and additional 25-foot impervious surface setback) to be applied to the property. The determination of a stream on the property requires the application of the stream buffer to the property and creates a hardship for the homeowner. To proceed with the proposed improvements and to bring the existing

portion of the home encroaching into the stream buffer would require remediation by variance. Granting of this variance would bring the existing home and proposed improvement into compliance with the City's Stream Buffer ordinance and result in the removal of 200 square feet of impervious surface within the State's 25-foot stream buffer.

### **Staff Recommendation**

Based upon the findings and conclusions herein, staff recommends **APPROVAL** of V-22-0007, **subject to the following conditions:**

- 1) The proposed development shall not exceed the following encroachments, as shown on the site plan received by the Community Development Department and date stamped on March 8, 2022:
  - a. 31 linear feet of encroachment into stream buffer
  - b. 85 square feet of disturbance within the 50-foot undisturbed buffer
  - c. 340 square feet of impervious surface within the 25-foot impervious surface setback
- 2) A vegetative planting plan shall be submitted to the Community Development Department for approval by the City's Land Development Manager, prior to the issuance of a building permit. Said plan shall be consistent with the mitigation plan received by the Community Development Department and date stamped on March 8, 2022. The final vegetative planting shall pass City inspection prior to the issuance of a Certificate of Completion.
- 3) The 200 square feet of existing impervious material shall be removed prior to completing the final inspection of the minor land disturbance permit and/or building permit.